

(a) of this section must meet the requirements of § 300.503(c).

(Authority: 20 U.S.C. 1415(d))

§ 300.505 Parental consent.

(a) *General.* (1) Subject to paragraphs (a)(3), (b) and (c) of this section, informed parent consent must be obtained before—

(i) Conducting an initial evaluation or reevaluation; and

(ii) Initial provision of special education and related services to a child with a disability.

(2) Consent for initial evaluation may not be construed as consent for initial placement described in paragraph (a)(1)(ii) of this section.

(3) Parental consent is not required before—

(i) Reviewing existing data as part of an evaluation or a reevaluation; or

(ii) Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children.

(b) *Refusal.* If the parents of a child with a disability refuse consent for initial evaluation or a reevaluation, the agency may continue to pursue those evaluations by using the due process procedures under §§ 300.507–300.509, or the mediation procedures under § 300.506 if appropriate, except to the extent inconsistent with State law relating to parental consent.

(c) *Failure to respond to request for reevaluation.* (1) Informed parental consent need not be obtained for reevaluation if the public agency can demonstrate that it has taken reasonable measures to obtain that consent, and the child's parent has failed to respond.

(2) To meet the reasonable measures requirement in paragraph (c)(1) of this section, the public agency must use procedures consistent with those in § 300.345(d).

(d) *Additional State consent requirements.* In addition to the parental consent requirements described in paragraph (a) of this section, a State may require parental consent for other services and activities under this part if it ensures that each public agency in the State establishes and implements effective procedures to ensure that a parent's refusal to consent does not result

in a failure to provide the child with FAPE.

(e) *Limitation.* A public agency may not use a parent's refusal to consent to one service or activity under paragraphs (a) and (d) of this section to deny the parent or child any other service, benefit, or activity of the public agency, except as required by this part.

(Authority: 20 U.S.C. 1415(b)(3); 1414(a)(1)(C) and (c)(3))

§ 300.506 Mediation.

(a) *General.* Each public agency shall ensure that procedures are established and implemented to allow parties to disputes involving any matter described in § 300.503(a)(1) to resolve the disputes through a mediation process that, at a minimum, must be available whenever a hearing is requested under §§ 300.507 or 300.520–300.528.

(b) *Requirements.* The procedures must meet the following requirements:

(1) The procedures must ensure that the mediation process—

(i) Is voluntary on the part of the parties;

(ii) Is not used to deny or delay a parent's right to a due process hearing under § 300.507, or to deny any other rights afforded under Part B of the Act; and

(iii) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

(2)(i) The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.

(ii) If a mediator is not selected on a random (e.g., a rotation) basis from the list described in paragraph (b)(2)(i) of this section, both parties must be involved in selecting the mediator and agree with the selection of the individual who will mediate.

(3) The State shall bear the cost of the mediation process, including the costs of meetings described in paragraph (d) of this section.

(4) Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.